

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

IN RE:

LACK'S STORES, INCORPORATED,  
*ET AL.*<sup>1</sup>

DEBTORS.

§ CASE NO. 10-60149  
§ (CHAPTER 11)  
§  
§ (Jointly Administered)  
§  
§ Requested Hearing Date/Time:  
§ Wednesday, January 19, 2011  
§ 2:30 pm CT

MOTION OF THE WILKERSON ENTITIES TO SHORTEN TIME AND SET  
HEARING FOR JANUARY 19, 2011, AT 2:30 PM WITH RESPECT TO:

THE MOTION OF THE WILKERSON ENTITIES

(A) TO COMPEL TIMELY PERFORMANCE OF POST-PETITION

LEASE OBLIGATIONS PURSUANT TO 11 U.S.C. § 365(D)(3)

OR, (B) IN THE ALTERNATIVE, FOR THE ALLOWANCE OF

ADMINISTRATIVE EXPENSE CLAIMS PURSUANT TO 11 U.S.C. § 503(B)(1)

MOVANT HEREBY REQUESTS A HEARING ON  
JANUARY 19, 2011 AT 2:30 P.M. AT THE UNITED STATES  
COURTHOUSE, COURTROOM 600, 515 RUSK AVENUE,  
HOUSTON, TEXAS 77002.

IF YOU OBJECT TO THE RELIEF REQUESTED IN THE  
MOTION REFERENCED HEREIN, YOU MUST RESPOND  
IN WRITING, SPECIFICALLY ANSWERING EACH  
PARAGRAPH OF THIS PLEADING. UNLESS  
OTHERWISE DIRECTED BY THE COURT, YOU MUST  
FILE YOUR RESPONSE WITH THE CLERK OF THE  
BANKRUPTCY COURT WITHIN TWENTY-THREE DAYS  
FROM THE DATE YOU WERE SERVED WITH THIS  
PLEADING. YOU MUST SERVE A COPY OF YOUR  
RESPONSE ON THE PERSON WHO SENT YOU THE  
NOTICE; OTHERWISE, THE COURT MAY TREAT THE  
PLEADING AS UNOPPOSED AND GRANT THE RELIEF  
REQUESTED.

REPRESENTED PARTIES SHOULD ACT THROUGH  
THEIR ATTORNEYS.

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<sup>1</sup> The Debtors include Lack's Stores, Incorporated ("Lack's Stores"), Merchandise Acceptance Corporation, Lack's Furniture Centers, Inc., and Lack Properties, Inc. ("Lack Properties").

Now come John G. Wilkerson, Jr. (“Wilkerson”), 4800 Franklin Avenue, LLC (“4800 Franklin”), the Gordon Mark Wilkerson 1991 Trust, the David Collins Wilkerson 1991 Trust, the Sarah Ruth Wilkerson 1991 Trust and the Ray Hankins Wilkerson 1991 Trust (collectively, with Wilkerson and 4800 Franklin, the “Wilkerson Entities”), and file this *Motion of the Wilkerson Entities to Shorten Time and Set a Hearing for January 19, 2011, at 2:30 pm With Respect to the Motion of the Wilkerson Entities (a) to Compel Timely performance of Post-petition Lease Obligations Pursuant to 11 U.S.C. § 365(d)(3) or, (b) in the Alternative, for the Allowance of Administrative Expense Claims Pursuant to 11 U.S.C. § 503(b)(1)* (the “Motion”), seeking a hearing on the underlying motion for January 19, 2011, at 2:30 pm, the next scheduled bi-monthly omnibus hearing. In support of this Motion, the Wilkerson Entities respectfully represent the following:

## **I. JURISDICTION AND VENUE**

1. The Court has jurisdiction over the above referenced, jointly-administered chapter 11 cases pursuant to 28 U.S.C. §§ 157 and 1334. The relief requested herein concerns administration of the Debtors’ estates, which constitutes a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue is proper in this District pursuant to 28 U.S.C. § 1408.

## **II. FACTS**

2. The Debtors commenced these jointly-administered chapter 11 cases on November 16, 2010 (the “Petition Date”).

3. On December 30, 2010, the Wilkerson Entities filed a motion seeking to compel payment of 2010 real property taxes due pursuant to certain unexpired leases between Lack’s Stores and the Wilkerson Entities. The taxes referenced in that motion are presently due and payable to the applicable taxing authorities, and the leases require Lack’s Stores to tender such

payments as “additional rents.” The taxes become delinquent if not paid before February 1, 2011.

4. The Debtors are in the process of liquidating their retail stores, three of which are located in the Wilkerson Entities’ properties. The Debtors have indicated an intention to vacate the stores and reject the leases before January 31, 2011. Because of the effects of such lease rejections, the timing of the Court’s consideration of the underlying motion is critical. The Wilkerson Entities request a hearing on the underlying motion before the effective date of the lease rejections.

### **III. PRAYER**

WHEREFORE, for the reasons stated herein, the Wilkerson Entities respectfully request that the Court grant this motion, set a hearing on the underlying motion for January 19, 2011, at 2:30 pm, and grant such other and further relief as may be just and proper.

Dated: December 30, 2010

Respectfully submitted,

**COX SMITH MATTHEWS INCORPORATED**

By: /s/ Mark E. Andrews

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**ATTORNEYS FOR THE WILKERSON ENTITIES**